IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7323 of 2002

Between:

M.P.Reddy, S/o. Narasimha Reddy.
R/o. Rajampet, Cuddapah.

..... PETITIONER

AND

1 The A.P.S.R.T.C., Rep. Managing Director
Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C.,
Cuddapah Region, Cuddapah.
3 The Divisional Manager, O/o. Regional Manager.
Cuddapah Region, Cuddapah.
4 The Depot Manager, A.P.S.R.T.C.,
Rajampet Depot, Rajampet,
Cuddapah.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents herein in imposing the capital punishment of removal from service by holding an ex parte departmental enquiry while the petitioner is undergoing treatment under intimation to the depot authorities vide proc. No.E1/1(7)/2000-RJPT, Dt, 30/12/2000 which was concerned by the 2nd and 3rd respondents vide Proc.No. PA/20A (35)/2001-RM-C, Cuddapah, dt.20/06/2001 and Proc.No.ST/20 B (33)/2001-RM-C, dated 06/06/2001 as illegal as the same was disproportionate to the alleged misconduct of unauthorised absence and against to the principles of natural justice and as such the same is liable to be set aside in the interest of justice with a consequential direction to the 3rd respondent herein to reinstate the petitioner into service with all benefits forthwith.

Counsel for the Petitioner:MR.S.M.SUBHAN

Counsel for the Respondents 1 to 4: MR.P.VINAYAKA SWAMY

The Court made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

Challenging the removal order from service by holding an exparte departmental enquiry, the present writ petition is filed. The petitioner was appointed as Conductor in the Andhra Pradesh State Road Transport Corporation ('APSRTC') in the year 1989. The order of the disciplinary authority dated 30.12.2000 removing the petitioner from the services of the respondents-Corporation for the charges levelled against him, was affirmed by the third and second respondents vide proceedings dated 6.6.2001 and 20.6.2001, respectively. The charges levelled against the petitioner are as follows:

Charge No.1: For having submitted sick certificates to your duties from 25.3.2000 to till date after availing leave for 15 days unauthorizedly without prior sanction of leave or intimation to the depot authorities which constitutes misconduct as pr Reg.28(xxvii) of APSRTC Employees (Conduct) Reg.1963.

Charge No.2: For having maintained irregular attendance from February 2000 to till date (i.e. 07.06.2000) which constitutes misconduct as per Reg.28(xxvii) of APSRTC Employees (Conduct) Reg.1963.

Charge No.3: For having failed to submit the sick certificate in person and produced the sick certificate which was signed by the another person which constitutes misconduct as per Reg.28(xxxii) of APSRTC Employees (Conduct) Reg.1963.

A Regular departmental enquiry was conducted. The enquiry officer submitted the report. After accepting the report and after giving reasonable opportunity to the petitioner, the removal order has been passed. The petitioner in the affidavit stated that he was not afforded any reasonable opportunity to defend his case and also

stated that an ex parte enquiry was conducted. It is to be seen that charge sheet has been sent by the registered post to the petitioner, but it was returned with an endorsement that door locked. Thereafter, the charge sheet has been exhibited in the notice board for a period of one week, but since the petitioner did not submit any explanation, the case has been entrusted to the enquiry officer. Even, the enquiry report sent through the registered post was returned, as addressee was not in town. After accepting the enquiry report, a show cause notice of removal from service was sent through the registered post, but the same was also returned with endorsement that the addressee was not in town. Then, the respondents-Corporation passed the order removing the petitioner from service.

The administrative decision can be challenged if there is any illegality or improper findings or irrationality. The charge sheet has been sent through the registered post, but the same was returned as door locked. Even the charge sheet was exhibited in the notice board, for which, there was no explanation from the petitioner. Therefore, it cannot be said that the principles of natural justice have been violated. After elaborate consideration only, the enquiry officer came to the conclusion that the charges levelled against the writ petitioner have been proved. However, the contentions raised in the writ petition are left open to the petitioner so as to approach the appropriate forum.

Accordingly, the writ petition is dismissed. It is made clear that any observations made in this writ petition will not be any binding effect or binding precedent on the Labour Court. The Labour Court shall have to pass necessary orders in a case that may be filed by the petitioner, basing on the evidence available on record. No costs.

K.C.BHANU, J

09th JUNE 2005.

Tsr.

To

1 The Managing Director, A.P.S.R.T.C.,
Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C.,
Cuddapah Region, Cuddapah.
3 The Divisional Manager, O/o. Regional Manager.
Cuddapah Region, Cuddapah.
4 The Depot Manager, A.P.S.R.T.C.,
Rajampet Depot, Rajampet,
Cuddapah.

5. Two C.D. copies.